IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6880 OF 2007

Jitendra Ramchandra Sathe & Ors.... ....Petitioners
V/s
Vinod Dinkar Paddhye & Ors..... ....Respondents.

Mr.V.Z.Kankaria i/by Mr.S.H.Joshi, Adv. For the petitioners.

Mr.Ditendra Mishra, Adv. For the respondent Nos.1 to 4.

CORAM: A.P.DESHPANDE, J.
20/9/07

PC:

The petitioners-original plaintiffs who instituted suit for perpetual injunction against respondents-defendants. The suit is brought on the basis of an agreement purported to have been executed by predecessor-in-title of the respondent in favour of predecessor-in-title of the plaintiff in the year 1978. The trial Court so also the First Appellate Court have concurrently found on facts that the plaintiffs have failed to establish that they are in possession of the suit property. The said finding is reached, relying on relevant circumstances such as non-mutation of names of predecessor-in-title of the plaintiff so also their names as persons in possession in the revenue record and after taking into consideration the affidavits filed by nearby cultivators the said finding has been reached. The view taken by the trial Court and the First Appellate Court is possible view which cannot be faulted moreso, in exercise of writ jurisdiction. In this view of the matter present writ petition deserves to be summarily dismissed. At this stage learned counsel for the petitioner submits that the trial Court may be influenced by the observations made by it while deciding Exh.5 and the First

Appellate Court confirming its order. The said apprehension is ill founded because the observations made in the impugned orders are prima facie in nature. The trial Court is bound to decide the suit uninfluenced by observations made in the impugned orders relating to temporary injunction including the question of possession. In the result writ petition is summarily dismissed. Disposal of the suit is expedited.

20.9.07